

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Tordis McKay

**Date Application filed with the Town Clerk:** May 31, 2005

**Nature of request:** A Special Permit under Section 5.011 of the Zoning Bylaw to add an accessory apartment of less than 800 square feet to a single-family dwelling.

**Location of property:** 325 Middle Street (Map 23D, Parcel 30, R-O Zone)

**Legal notice:** Published on June 29<sup>th</sup> and July 6<sup>th</sup>, 2005 in the Daily Hampshire Gazette and sent to abutters on June 29<sup>th</sup>, 2005.

**Board members:** Zina Tillona, Tom Simpson and Susan Pynchon

**Submissions:** The applicant submitted:

- A set of drawings by Ford Gillen Architects, dated 5/27/05, containing a site plan, locus plan, proposed first floor plan, proposed basement plan, and proposed east and west elevation.
- A revised set of proposed first floor and basement plans, dated 7/15/05 by Ford Gillen Architects
- A plan with dimensions of the proposed supplemental apartment, by architect Bill Gillen, received 7/18/05
- A management plan, received July 20, 2005

The Conservation Department submitted the "Order of Conditions for wetlands boundaries, plus a map of the property showing the "Mean Annual High Water" mark and the "Bordering Vegetative Waterfront" line, prepared by New England Environmental, Inc, dated 6/23/2005.

The Assistant Fire Chief submitted a memo dated 7/11/05 stating that smoke detectors for the entire building must be installed and that the address assignment for the proposed new unit must be approved by the Fire Department.

**Site Visit:** July 12, 2005

The Board observed the site, noting the location of the proposed two parking spaces in the front of the property, the sloped driveway down to the two-car garage, the large backyard, and the large amount of vegetation in the back of the property. The neighborhood along Middle Street is mainly comprised of single-family homes on large lots, with farming

activity in the open areas west of the residences.

**Public Hearing:** July 14, 2005

The applicant Tordis McKay and architect Bill Gillen both spoke at the hearing. They provided the following information:

- The applicant wishes to live in the proposed basement apartment and rent the upstairs house.
- Eventually Ms. McKay wishes to move upstairs, then rent the supplemental apartment downstairs
- Ms. McKay will live in the house permanently, except when she travels, and will be responsible for the maintenance.
- Improvements will be made to the upstairs, including a new front entrance.
- The living space upstairs is now 1,660 square feet.
- The proposed addition to both the upstairs and downstairs is 12' 3" x 13' or ~160 sq. ft.
- The proposed supplemental apartment, including the addition, but not the storage area downstairs, is 332 sq. ft.
- If the storage area downstairs is added to the apartment space, the size would then be 425 sq.ft.
- Either configuration of the proposed apartment (with or without the storage area) is less than the 800 sq.ft. permitted by Zoning Bylaw Section 5.011 for supplemental apartments.
- The laundry area downstairs would be shared by both dwelling units. Its dimensions are 6' 8" x 7' 3.5", or 49.28 sq. ft.
- The proposed curved driveway, with two curb cuts, is not allowed by the DPW, so the proposed two extra parking spaces for the second dwelling unit will be in the front of the house, at the top of the sloping driveway.
- There is screening – a stone wall and shrubs – already existing in the front, plus screening along the side property lines, so the extra parking will not be intrusive to the neighbors.
- The exterior lighting is motion sensitive. Any new exterior lighting will be downcast.
- The exterior siding of the proposed addition will match the existing siding of the house.

Building Commissioner Bonnie Weeks said that a second means of egress needs to be added to the supplemental apartment, and that firewalls need to be added to the perimeter of the storage area as well as the shared laundry area.

The Board noted that a Special Permit 1978-37 had been granted for a supplemental apartment, but the permit had expired when the house was sold. The previous apartment was just a small space in the lower level, and did not have a complete kitchen.

One member of the public spoke to the application. Paul Bracciotti, 315 Middle Street, said that he welcomes a new owner who will care about the property. He asked who will

manage the property when the applicant is gone.

The Board said that, even though the property will be owner-occupied, Ms. McKay needs to submit a management plan to the Board outlining who will manage the property when she travels.

The Board noted the large size of the lot, 43,520 square feet, and the distance from the back addition to the buffer zone for the wetlands in the backyard. The addition will be beyond the 50' buffer zone determined by the Conservation Commission, and hence is buildable as proposed.

Tom Simpson moved to close the public hearing; Susan Pynchon seconded the motion, and the vote was unanimous.

**Public Meeting:**

The Board noted that, since a supplemental apartment had existed in the house previously, the proposed supplemental apartment would not change the conditions that have existed without problem for some time.

The Board discussed whether Section 5.011 of the Bylaw assumes that the owner would live in the main unit. They concluded that "where" the owner of the single family unit lived in the house from one year to the next – whether in the main unit or the supplemental apartment – was not stipulated in the Bylaw, only that the premises be owner-occupied.

The Board noted that both a new management plan and revised plans for the supplemental apartment were needed. They would be conditioned as part of the permit and shall be submitted for review by a date certain.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings for all Special Permits, that:

10.389 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with other uses permitted by right, since the house had contained a supplemental apartment for some time without difficulty, the owner would occupy the house and be responsible for maintenance, and that no changes will be made to the house that will alter its single-family appearance.

10.382 & 10.384 – The proposal would not constitute a nuisance due to water pollution, flood, lights or visually offensive structures since the small addition will not be noticeable from the front and is beyond the buffer zone for the wetland as established by the Conservation Commission. Also, lighting will be downcast, and the property is already screened from adjacent properties.

10.383, 10.387 & 10.388 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because the additional parking for the second living unit is provided for on the level area in front, and is screened. There is sufficient

area in the lower driveway next to the garage for additional parking and turning as well.

10.390, 10.391 & 10.394 – The proposal ensures protection from flood hazards and protects the unique natural and scenic features in that the proposed addition is small, far enough away from the wetlands vegetation, and does not interfere with the scenic view to the west. The proposal avoids any impact on the sloping backyard or the wetlands.

10.392 & 10.393 – The proposal does not alter the natural landscaping and screening of adjacent residential uses. Extra screening will be added for the two new parking places in the front of the house, and all additional lighting will be downcast.

10.397 – The proposal provides adequate recreational and open space in that the property is one acre with a large backyard and vegetative space.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw since it provides for a small second unit in a single family residence that will promote the health, safety and convenience of the owner and not detract from the neighborhood.

### **Zoning Board Decision:**

Tom Simpson moved to APPROVE the proposal, with conditions. Susan Pynchon seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to approve a Special Permit to Tordis McKay to add an accessory apartment of less than 800 square feet to a single-family dwelling under Section 5.011 of the Zoning Bylaw at 325 Middle Street (Map 23D, Parcel 30, R-O Zone), with conditions.

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ZINA TILLONA

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TOM SIMPSON

\_\_\_\_\_  
SUSAN PYNCHON

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2005 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2005.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2005  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2005,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Tordis McKay to add an accessory apartment of less than 800 square feet to a single-family dwelling under Section 5.011 of the Zoning Bylaw at 325 Middle Street (Map 23D, Parcel 30, R-O Zone), subject to the following conditions:

1. The maximum number of cars parked on the premises on an ongoing basis shall be four (4).
2. The supplemental apartment shall be occupied by a total of no more than two (2) persons.
3. The main house shall be occupied by no more than four (4) unrelated persons.
4. A Management Plan shall be submitted for review by the Board at a public meeting on July 25, 2005.
5. Revised plans for the supplemental apartment and lighting plans for the premises shall be submitted for review by the Board at a public meeting on July 25, 2005.
6. The Management Plan, revised floor plans for the supplemental apartment and lighting plans shall be approved by the Board prior to the issuance of a building permit.

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ZINA TILLONA, Chair  
Amherst Zoning Board of Appeals

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DATE